



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Michael V Shelton MD

**Respondent Name**

Protective Insurance Co

**MFDR Tracking Number**

M4-16-3532-01

**Carrier's Austin Representative**

Box Number 17

**MFDR Date Received**

July 26, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "All of these labs play an important role in the care and treatment of the patient. However; we cannot seem to obtain payment for this date of service."

**Amount in Dispute:** \$110.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "CorVel hereby certifies a properly completed request for reconsideration was not received for the charges in question prior to receipt of this request for medical fee dispute resolution. As such, CorVel respectfully requests the division issue a decision dismissing the request for MFDR in accordance with §133.307(f)(3)(A)."

**Response Submitted by:** CorVel Healthcare Corporation

### SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|-------------------|-------------------|------------|
| April 26, 2016   | 80053, 85025      | \$110.00          | \$0.00     |

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 4 – Required Modifier Missing or Inconsistent w/proced

- RP3 – CMS statutory exclusion/svc not paid to physicians

## Issues

1. Is the carrier's position supported?
2. Are the insurance carrier's reasons for denial or reduction of payment supported?
3. Is the requestor entitled to additional reimbursement?

## Findings

1. The carrier states in their position, "CorVel Hereby certifies a properly completed request for reconsideration was not received for the charges in question prior to receipt of this request for medical fee dispute resolution. As such, CorVel respectfully requests the division issue a decision dismissing the request for MFDR in accordance with §133.307(f)(3)(A). 28 Texas Administrative Code (f)(3)(A) states in pertinent part,

A dismissal is not a final decision by the division. The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of this section. The division may dismiss a request for MFDR if:

- (A) the division determines that the medical bills in the dispute have not been submitted to the insurance carrier for an appeal, when required;

Pursuant to the above the Division finds this dispute will not be dismissed but rather reviewed per applicable rules and fee guidelines.

2. The insurance carrier denied disputed services with claim adjustment reason code RP3 – "CMS statutory exclusion/svc not paid to physicians." 28 Texas Administrative Code §134.203(b)(1) requires that

For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following:

Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided

The applicable Medicare payment policy found at [www.cms.gov](http://www.cms.gov), Medicare Claims Processing Manual Chapter 16 - Laboratory Services, 10 – Background states in pertinent part,

*Diagnostic X-ray, laboratory, and other diagnostic tests, including materials and the services of technicians, are covered under the Medicare program. Some clinical laboratory procedures or tests require Food and Drug Administration (FDA) approval before coverage is provided.*

*A diagnostic laboratory test is considered a laboratory service for billing purposes, regardless of whether it is performed in:*

- *A physician's office, by an independent laboratory;*
- *By a hospital laboratory for its outpatients or nonpatients;*
- *In a rural health clinic; or*
- *In an HMO or Health Care Prepayment Plan (HCPP) for a patient who is not a member.*

The services in dispute are related to clinical laboratory services. Pursuant to the above these services are covered and payable under the benefit for diagnostic laboratory tests.

The carrier used denial code 4 – "Required Modifier Missing or Inconsistent w/proced". Review of the 2016 CPT-4 and HCPCS Codes Subject to CLIA Edits at [www.cms.gov](http://www.cms.gov) finds codes 80053 and 85025 are subject to CLIA edits. Review the Medicare Claims Processing Manual, Chapter 16, Section 70.8 - Certificate of Waiver,

*Effective September 1, 1992, all laboratory testing sites (except as provided in 42 CFR 493.3(b)) must have either a CLIA certificate of waiver, certificate for provider-performed microscopy procedures, certificate of registration, certificate of compliance, or certificate of accreditation to legally perform clinical laboratory testing on specimens from individuals in the United States.*

*The Food and Drug Administration approves CLIA waived tests on a flow basis. The CMS identifies CLIA waived tests by providing an updated list of waived tests to the A/B MACs (A) and (B) on a quarterly basis via a Recurring Update Notification. To be recognized as a waived test, some CLIA waived tests have unique HCPCS procedure codes and some must have a QW modifier included with the HCPCS code.*

*For a list of specific HCPCS codes subject to CLIA see <https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA/Downloads/SubjecttoCLIA.pdf>*

Review of the submitted medical claim finds no indication of a CLIA certificate and no modifier was used as required by applicable Medicare policy. The carrier's denial is supported.

3. Pursuant to applicable Division Rule 134.203(b) the Division finds no additional payment is due.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

|           |  |               |
|-----------|--|---------------|
| _____     | _____                                  | August , 2016 |
| Signature | Medical Fee Dispute Resolution Officer | Date          |

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**